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FILED

Oct 11 2023

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

FILED UNDER SEAL

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARYL CATRELL CALDWELL, JR.,

Defendant.

CASE NO. 4:23-mj-71529-MAG

NOTICE OF PROCEEDINGS ON OUT-OF-DISTRICT CRIMINAL CHARGES PURSUANT TO RULES 5(c)(2) AND (3) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

UNDER SEAL

Please take notice pursuant to Rules 5(c)(2) and (3) of the Federal Rules of Criminal Procedure that on October 10, 20223, the above-named defendant was arrested pursuant to an arrest warrant (copy attached) issued upon an

- ☐ Indictment
☐ Information
☒ Criminal Complaint
☐ Other (describe):

pending in the District of Nevada, Case Number 2:23-mj-00892-DJH.

In that case, the defendant is charged with violating Title 18, United States Code, Sections

1 922(a)(6), 924(a)(2), and 2.

2 DESCRIPTION OF CHARGES: Illegal Acquisition of a Firearm

3 PENALTY:

4 Maximum 10 years imprisonment;

5 \$250,000 fine

6 3 years supervised release

7 Mandatory: \$100 special assessment

8 Forfeiture

9 Date: October 10, 2023

Respectfully Submitted,

10 ISMAIL J. RAMSEY
United States Attorney

11 /s/ *Alethea Sargent*
12 ALETHEA SARGENT
13 Assistant United States Attorney



SEALED

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FILED.

DATED: 4:50 pm, October 05, 2023

U.S. MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES MARCUS KELLEY, and

DARYL CATRELL CALDWELL, JR.,

Defendants.

Case No. 2:23-mj-00892-DJA

COMPLAINT

VIOLATION:

18 U.S.C. §§ 922(a)(6) and 2 – Illegal
Acquisition of a Firearm

BEFORE the United States Magistrate Judge, Las Vegas, Nevada, the undersigned
Complainant, being duly sworn, deposes and states:

COUNT ONE

Illegal Acquisition of a Firearm
(18 U.S.C. §§ 922(a)(6), 924(a)(2), and 2)

On or about July 6, 2023, in the State and Federal District of Nevada,

**JAMES MARCUS KELLEY, and
DARYL CATRELL CALDWELL, JR.,**

1 defendants herein, aiding and abetting one another, in connection with the acquisition of
2 firearms, to wit: a Century Arms Micro-Draco 7.62x39MM Pistol (S/N: 22PMD-36246);
3 a Glock 21 Gen4, 45 ACP Pistol (S/N: THR795); and a Glock 26 Gen4, 9x19, Pistol (S/N:
4 BHPE880), from New Frontier Armory, a licensed dealer of firearms within the meaning
5 of Chapter 44 of Title 18, United States Code (the "Dealers"), knowingly made and caused
6 to be made a false and fictitious written statement to New Frontier Armory, which
7 statement was intended and likely to deceive each New Frontier Armory as to a fact
8 material to the lawfulness of the sale of said firearm to the defendant under Chapter 44 of
9 Title 18, United States Code, in that JAMES MARCUS KELLEY did complete and
10 execute a Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 Firearms
11 Transaction Record, wherein JAMES MARCUS KELLEY represented that he was the
12 "actual transferee/buyer of the firearm[s]," when in fact, and as the defendant well knew,
13 he was acquiring the firearms on behalf of another person, and aided and abetted the same,
14 all in violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and 2.

15
16 **PROBABLE CAUSE AFFIDAVIT**

17 Your Affiant, as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms,
18 and Explosives (ATF), states the following as and for probable cause:

19 1. Your Affiant is a Special Agent with the Bureau of Alcohol, Tobacco,
20 Firearms, and Explosives (ATF), a component of the United States Department of Justice,
21 and has been so employed since December of 2020. Your Affiant is currently assigned to
22 the ATF Las Vegas Group II Crime Gun Intelligence Task Force. The following
23 information contained within this criminal complaint is based upon your Affiant's
24 participation in this investigation as well as information and reports provided to your

1 Affiant by other law enforcement personnel. This statement does not include all
2 information in reference to this investigation, but rather only those facts necessary to
3 establish probable cause. All times are approximate.

4 **FACTS ESTABLISHING PROBABLE CAUSE**

5 1. During September 2023, ATF Special Agents (“SAs”) initiated an
6 investigation on James Marcus KELLEY after learning KELLEY had four multiple sales
7 reports¹ involving a total of 12 pistols in a 26-day time frame. Additional inquiries also
8 revealed KELLEY as the purchaser of two firearms that were recovered on or about
9 September 2, 2023, with 43-day time-to-crime (TTC)².

10 2. Between September 7, 2023, and September 8, 2023, SAs contacted three
11 Federal Firearms Licensees (FFLs) that KELLEY had purchased from in the State of
12 Nevada, to include: Freedom Firearms, New Frontier Armory, and Spartan Arms. Upon
13 further contact with the three FFLs, all businesses informed agents that KELLEY applied
14 for chargebacks³ on the firearms transactions he made. Further queries revealed KELLEY
15 attempted to purchase an additional firearm at Ventura Munitions on August 30, 2023. An
16 employee from Ventura Munitions advised agents that KELLEY had applied for a
17 chargeback at their business, and never actually received the firearm he attempted to
18
19

20 ¹ A Multiple Sale Report is a report that Federal Firearms Licensees must complete
21 during the sale of two or more handguns if they occur at the same time or within five
consecutive business days of each other.

22 ² A Time-To-Crime is the amount of time between the retail sale of a firearm and law
enforcement recovery.

23 ³ A chargeback is a charge that is returned to a payment card after a customer
24 successfully disputes an item on their account statement or transactions report. A
chargeback may occur on debit cards (and the underlying bank account) or on credit cards.

1 purchase because he submitted for a chargeback prior to re-certification⁴ and pick-up of the
2 firearm.

3 3. On September 8, 2023, your Affiant went to New Frontier Armory, which is
4 located in Las Vegas, Nevada, to obtain video footage that an employee had downloaded of
5 KELLEY's transactions from July 6, 2023, and July 21, 2023.

6 4. On September 8, 2023, your Affiant requested an offline check from the
7 National Crime Information Center (NCIC). The offline check results revealed KELLEY
8 was queried by the Nevada Department of Public Safety approximately eight times between
9 the dates of June 26, 2023, to August 31, 2023. After obtaining all documentation from the
10 FFLs, it was determined that KELLEY acquired 18 firearms and attempted to acquire 6
11 more firearms.

12 5. Your Affiant contacted each FFL in the state of Nevada where KELLEY
13 purchased firearm(s) and requested copies of ATF Form 4473's (Firearms Transaction
14 Records), receipts, and surveillance footage. In regard to every ATF Form 4473, KELLEY
15 marked the "yes" box on question 21.a, indicating that the firearm(s) were for him.
16 KELLEY also signed and dated his name on page 2 of every ATF Form 4473 indicating
17 that his answers on the form were true, correct, and complete. In addition, page 3 of the
18 forms indicates that KELLEY re-certified his responses in Section B to be: true, correct, and
19 complete with a couple exceptions explained in the chart below in paragraph 8.
20
21
22

23 ⁴ If the firearm purchased is not obtained on the same day, the customer must re-
24 certify his answers in Section B of the ATF Form 4473 to be: true, correct, and complete,
upon the day of the firearm pick-up.

6. On KELLEY's various ATF Form 4473s, KELLEY provided the FFLs with the following contact information: (702) 954-1742 (TT-1), (213) 618-9601 (TT-2), and blackisred76@gmail.com.

7. On or about September 25, 2023, ATF SAs queried open-source information and located the following associations with **TT-1** and **TT-2**:

a. **TT-1**: As of May 2023, KELLEY is associated with the phone number.

b. **TT-2**: As of August 2023, CALDWELL is associated with the phone number.

8. Listed below is a summarized table of all the locations that KELLEY filled out ATF Form 4473s and purchased firearms between June 2023 through September 2023.

| LOCATION IN THE STATE OF NEVADA | DATE OF INITIAL CERTIFICA TION | DATE OF TRANSFER & RECERTIFICA TION | FIREARM(S) | NOTES |
|--|---|--|--|--|
| 1. Spartan Arms | 6/26/2023 | No Recertification – Obtained same day; only signed initial certification | 1. Century Arms Draco, 7.62x39 MM Pistol (S/N: 23PH-0442) 2. Glock 43x, 9MM Pistol (S/N: AHSY229) 3. Glock 27 Gen5, 40 Cal Pistol (S/N: BYAF524) | - FFL advised that KELLEY provided TT-1 and TT-2 as contact phone numbers |

| | | | | |
|------------------------|-----------|---|--|--|
| 2. New Frontier Armory | 7/6/2023 | KELLEY obtained the firearms on the same day but signed and re-certified | <p>1. Century Arms Micro-Draco 7.62x39MM Pistol (S/N: 22PMD-36246)</p> <p>2. Glock 21 Gen4, 45 ACP Pistol (S/N: THR795)</p> <p>3. Glock 26 Gen4, 9x19, Pistol (S/N: BHPE880)</p> | <p>- This transaction was paid in cash and the total was \$2,489.41. CALDWELL can be seen handing KELLEY a stack of cash on video surveillance</p> <p>- Phone number KELLEY provided to the FFL was TT-2</p> |
| 3. Freedom Firearms | 7/21/2023 | No Recertification – Obtained same day; only signed initial certification | <p>1. Glock 20 Gen5 Pistol (S/N: CAHY333)</p> <p>2. Glock 30 Gen4 Pistol (S/N: BZVR113)</p> | <p>- Glock 30 recovered in crime on/about 9.2.23</p> |
| 4. New Frontier Armory | 7/21/2023 | KELLEY obtained the firearms on the same day but signed and re-certified | <p>1. Glock 26, 9x19 Pistol (S/N: AGDE514)</p> <p>2. Glock 23, 40 S&W, Pistol (S/N: CAKL855)</p> <p>3. Glock 19, 9x19 Pistol (S/N: CAAT833)</p> <p>4. Romarm/ Cugir Draco 7.62x39 Pistol (S/N: DB-0154-16)</p> | <p>- Glock 19 recovered in crime on/about 9.2.23</p> <p>-CALDWELL carried firearm box out</p> <p>- Phone number KELLEY provided to the FFL was TT-1</p> |

| | | | | |
|----------------------|-----------|--|---|--|
| 5. Spartan Arms | 8/30/2023 | No Recertification – Obtained same day; only signed initial certification | 1. FNH USA Five-Seven 5.7x28MM Pistol (S/N: 386446911) | - FFL advised that KELLEY provided TT-1 and TT-2 as contact phone numbers |
| 6. Freedom Firearms | 8/30/2023 | No Recertification – Obtained same day; only signed initial certification | 1. Glock 29 Gen4, 10MM auto pistol (S/N: BYAH979) 2. Glock 23 Gen5, .40 Cal Pistol (S/N: BYSK298) 3. Glock 20 Gen5, 10MM Pistol (S/N: CAHY330) 4. Glock 27 Gen5, .40 Cal Pistol (S/N: CAYZ713) 5. Glock 30S, .45 Auto Pistol (S/N: CBBS727) | |
| 7. Ventura Munitions | 8/30/2023 | No Recertification – Never obtained firearm, only signed initial certification | 1. Smith & Wesson M&P 15 5.56 Rifle (S/N: TV34660) | - An employee advised SAs that KELLEY submitted a chargeback prior to obtaining the firearm; the firearm was never released to KELLEY - Phone number KELLEY |

| | | | | |
|-----------------|-----------|---|--|---|
| | | | | provided to the FFL was TT-1 |
| 8. Spartan Arms | 9/14/2023 | No Recertification – Firearms administratively seized | 1. Glock 21 Gen4, .45 ACP Pistol (S/N: AGMH425) 2. Glock 23 Gen5, 40 S&W Pistol (S/N: BXHR840) 3. Glock 27, 40 S&W Pistol (S/N: CAFB871) 4. Century Arms Micro Draco 7.62x39MM Pistol (S/N: MSV701541) 5. Glock 23 Gen4, 40 S&W Pistol (S/N: XKR181) | - FFL advised that KELLEY provided TT-1 and TT-2 as contact phone numbers |

9. On September 14, 2023, an employee at Spartan Arms provided SAs with a photo of the vehicle that KELLEY arrived in. The vehicle was a silver BMW bearing California plates “5SSM042”. SAs queried the vehicle and located a traffic citation from December of 2022 listing the following driver information: Daryl Catrell CALDWELL Jr. (hereinafter, “CALDWELL”), a multi-convicted felon, with an address in Antioch, CA. CALDWELL also has an active protection order that began on or about June 18, 2019, and will expire on or about June 18, 2029. The protection order states that CALDWELL is restrained from assaulting, threatening, abusing, harassing, following, interfering, or stalking the protected person and/or the child of the protected person. In addition, the

order states as follows: “The subject is prohibited from possessing and/or purchasing a firearm or other weapons as identified in the miscellaneous field.”

10. SAs queried the vehicle bearing California plate 5SSM042 for License Plate Reader (LPR) hits coming into/departing the State of Nevada. See table listed below for items of interest located:

| <u>DATE</u> | <u>DIRECTION OF TRAVEL</u> | <u>NOTES</u> |
|-------------|--------------------------------|--|
| 7/6/2023 | NB I-15 at Primm at 5:41:48 AM | New Frontier (FFL #2) Transaction |
| 7/6/2023 | SB I-15 at Jean at 7:22:57 PM | |
| 7/21/2023 | NB I-15 at Primm at 7:35:16 AM | Freedom Firearms (FFL #1) Transaction and New Frontier (FFL #2) Transaction |
| 7/21/2023 | SB I-15 at Jean at 2:36:16 PM | |
| 9/14/2023 | NB I-15 at Primm at 7:26:17 AM | Ventura Munitions (FFL #4) Transaction and Spartan Arms Transaction (FFL #3) |
| 9/14/2023 | SB I-15 at Jean at 3:50:34 PM | |

11. SAs began review of the various FFLs surveillance footage and noted the following observations of interest:

- a. On July 6, 2023, at New Frontier Armory, KELLEY, who was wearing a white sweatshirt, can be seen utilizing a cellular device in close proximity to CALDWELL, who was wearing a black shirt, as seen in the image below:



b. On July 6, 2023, at New Frontier Armory, CALDWELL, who was wearing a black durag, black shirt, and red shorts, removed a large stack of currency from his shoulder bag. A short time later, the FFL employee handed KELLEY an ATF Form 4473. KELLEY then began the process of completing the aforementioned form. At this time, CALDWELL counted and divided the stack of currency, leaving a portion of it near KELLEY on the glass display case (pictured below). KELLEY later placed the currency in his front sweater pocket. KELLEY later paid for the firearms by removing currency from his front sweater pocket. CALDWELL was in close proximity to KELLEY during this time. A short time later, CALDWELL and KELLEY departed the FFL.



12. On or about October 3, 2023, your Affiant analyzed historical Call Detail Records (“CDR”) reference TT-1, the cell phone associated with KELLEY. See below for transactional data obtained regarding calls between TT-1 and TT-2 (cell phone associated with CALDWELL), all dates and times are approximate:

a. July 6, 2023:

- i. TT-1 placed an outgoing call to TT-2, with a duration of 0:00.
- ii. TT-1 received an incoming call from TT-2, with a duration of 00:11 seconds.
- iii. TT-1 received an incoming call from TT-2, with a duration of 0:00.

13. New Frontier Armory is a licensed firearms dealer within the meaning of Chapter 44 of Title 18, United States Code.

14. Had New Frontier Armory known that KELLEY was not the actual transferee/buyer of the firearms, New Frontier Armory could not have legally sold the firearms to KELLEY.

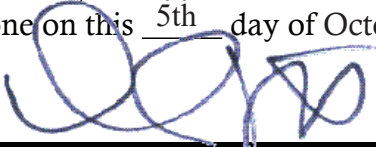
CONCLUSION

Based upon the foregoing facts and information, your Affiant respectfully submits that there is probable cause to believe that JAMES MARCUS KELLEY and DARYL CATRELL CALDWELL, JR. committed the offenses of *Illegal Acquisition of a Firearm*, in violation of 18 U.S.C. §§ 922(a)(6), 924(a)(2), and 2.



Special Agent Brittany Nimmo
Bureau of Alcohol, Tobacco, Firearms
and Explosives

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 5th day of October 2023.



HONORABLE DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

FILED.
UNITED STATES DISTRICT COURT

DATED: 4:52 pm, October 05, 2023

for the
 District of Nevada

U.S. MAGISTRATE JUDGE

United States of America

v.

DARYL CATRELL CALDWELL, JR.

Case No. 2:23-mj-00892-DJA

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

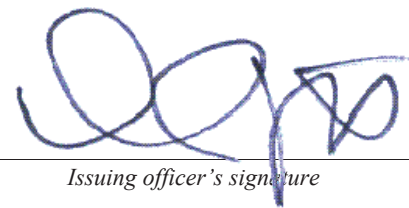
YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
 (name of person to be arrested) DARYL CATRELL CALDWELL, JR.,
 who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment
 ☐ Superseding Indictment
 ☐ Information
 ☐ Superseding Information
 ☒ Complaint
☐ Probation Violation Petition
 ☐ Supervised Release Violation Petition
☐ Violation Notice
☐ Order of the Court

This offense is briefly described as follows:

18 U.S.C. §§ 922(a)(6) and 2 - Illegal Acquisition of a Firearm

Date: 10/5/2023



Issuing officer's signature

City and state: Las Vegas, Nevada

Hon. Daniel J. Albregts, U.S. Magistrate Judge

Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
 at (city and state) _____.

Date: _____

Arresting officer's signature

Printed name and title

**This second page contains personal identifiers provided for law-enforcement use only
and therefore should not be filed in court with the executed warrant unless under seal.**

(Not for Public Disclosure)

Name of defendant/offender: DARYL CATRELL CALDWELL, JR.

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____